



PUBLIC NOTICE

Federal Communications Commission
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DA 09-1818
August 19, 2009

Auction of FM Broadcast Construction Permits

77 Bidders Qualified to Participate in Auction 79

AU Docket No. 09-21

1. In this Public Notice, the Wireless Telecommunications and Media Bureaus (the “Bureaus”) identify 77 applicants found to be qualified to bid in the upcoming auction of FM broadcast construction permits (Auction 79). Bidding in Auction 79 is scheduled to begin on Tuesday, September 1, 2009.¹ This Public Notice contains bidding instructions, auction procedures, and other important information regarding Auction 79. It also addresses the continuing obligations for all Auction 79 applicants, including those that have not qualified to participate.

I. QUALIFIED AND NON-QUALIFIED BIDDERS

A. Qualified Bidders

2. Attachment A to this Public Notice lists the name of each of the 77 qualified bidders, each bidder’s upfront payment amount, and its maximum eligibility in bidding units. Designation of an applicant as qualified to bid in the auction indicates that the applicant has provided the certifications and information concerning its qualifications for participation in the auction and timely submitted a sufficient upfront payment as required by the Commission’s competitive bidding rules.²

3. In order to participate effectively in the auction, qualified bidders should again familiarize themselves with the auction rules, procedures, and other information described in the *Auction 79*

¹ See “Auction of FM Broadcast Construction Permits Scheduled for September 1, 2009; Notice and Filing Requirements, Minimum Opening Bids, Upfront Payments, and Other Procedures for Auction 79,” *Public Notice*, DA 09-810, 24 FCC Rcd 4448 (2009) (“*Auction 79 Procedures Public Notice*”).

² Under the Commission’s two-phased auction application process, a winning bidder must submit a long-form application after the close of Auction 79 to demonstrate its qualifications to hold a Commission license and, if a bidding credit is requested, its eligibility for the requested bidding credit. Thus, a determination that a short-form application is complete and complies with the Commission’s competitive bidding rules and policies is not determinative of an applicant’s qualifications to hold a license or entitlement to a bidding credit. See 47 C.F.R. §§ 1.2107 – 1.2109; see also Amendment of Part 1 of the Commission’s Rules – Competitive Bidding Procedures, PP Docket No. 93-253, *Second Report and Order*, FCC 94-61, 9 FCC Rcd 2348, 2376-77 ¶¶ 163-168 (1994) (“*Competitive Bidding Second Report and Order*”). Requests concerning applicant qualifications and eligibility for a bidding credit are generally considered after the auction during the long-form application process. In the event that an applicant is found unqualified to be a Commission licensee or ineligible for any claimed bidding credits, it will be liable for any obligations incurred as a result of its participation in the auction. See generally 47 C.F.R. § 1.2109.

Procedures Public Notice and subsequent public notices.³ These public notices and other documents related to Auction 79 are available on the Commission's auctions website at <http://wireless.fcc.gov/auctions/79/>. This Public Notice provides additional guidance.

4. Attachment B to this Public Notice lists the construction permits selected on each qualified bidder's short-form application (FCC Form 175). For qualified bidders claiming a new entrant bidding credit, the applicant's bidding percentage for each construction permit is indicated as 35 percent or 25 percent.⁴ This information will also be available in a spreadsheet on the Auction 79 web site (<http://wireless.fcc.gov/auctions/79/>). The file will be located under the subheading "General Information."

B. Non-Qualified Bidders

5. Attachment C to this Public Notice lists each applicant not previously rejected that submitted a short-form application but did not qualify to bid in this auction.⁵ All applicants, including those listed in Attachment C and those previously rejected, are reminded that they remain subject to the Commission's rules prohibiting certain communications in Commission auctions.⁶

II. REGISTRATION AND BIDDING ACCESS

A. Registration Materials

6. Qualified bidders have been automatically registered for the auction. Registration materials will be sent to the bidder's contact person at the contact address identified in the bidder's short-form application. Upon receipt, each bidder should be in possession of the following:

- At least two RSA SecurID® tokens
- Integrated Spectrum Auction System (ISAS) Bidder's Guide
- FCC Auction Bidder Line telephone number

7. Qualified bidders are solely responsible for ensuring the security of their computer systems and their registration materials and for ensuring that only authorized bidders place bids on their behalf. The Commission assumes no responsibility or liability for these matters.

WARNING: Any unauthorized entity accessing or tampering with an FCC or other government computer system will be prosecuted to the full extent of the law.

8. Any qualified bidder listed in Attachment A of this Public Notice that has not received the registration mailing **by 12:00 noon Eastern Time (ET) on Wednesday, August 26, 2009**, must contact

³ *Auction 79 Procedures Public Notice*, 24 FCC Red at 4448; *see also* "Auction of FM Broadcast Construction Permits; Status of Short-Form Applications to Participate in Auction 79," *Public Notice*, DA 09-1548 (rel. July 22, 2009) ("Auction 79 Status Public Notice").

⁴ The new entrant bidding credit is not available to an applicant if it, and/or any individual or entity with an attributable interest in the applicant, has an attributable interest in more than three media of mass communications or any existing media of mass communications in the "same area" as the broadcast facility proposed by the applicant. 47 C.F.R. § 73.5007. *See* 47 C.F.R. § 73.5007(b)(1)-(3) for the specific service definitions of "same area."

⁵ As announced in *Auction 79 Status Public Notice*, six applicants checked "yes" to the Noncommercial Educational election question on the Form 175, and the applications were mutually exclusive with applications for FM commercial stations in Auction 79. Pursuant to 47 C.F.R. § 73.5002(b), these six applications were rejected and the applicants are excluded from further participation in Auction 79.

⁶ *See* 47 C.F.R. § 1.2105(c); *see also Auction 79 Procedures Public Notice*, 24 FCC Red at 4452-57 ¶¶ 7-20.

the Auctions Hotline directly at (717) 338-2868. Qualified bidders must have these registration materials to submit bids. Receipt of the registration mailing is critical to participating in both the mock auction and the actual auction, and it is the responsibility of each qualified bidder to ensure that all registration information has been received.

B. Registration Material Replacement

9. In the event that a bidder's SecurID® tokens are lost or damaged, only a person who has been designated as an authorized bidder, the contact person, or the certifying official on the applicant's short-form application may request replacement registration material. Qualified bidders requiring replacement of these items must call Technical Support at (877) 480-3201, option nine; (202) 414-1250; or (202) 414-1255 (TTY).

C. Bidding Access

10. The Commission will conduct Auction 79 over the Internet. Qualified bidders can access the Integrated Spectrum Auction System ("ISAS" or "FCC Auction System") at <http://auctions.fcc.gov> or <http://auctions2.fcc.gov>. Bidders choosing to bid electronically should review the Integrated Spectrum Auction System (ISAS) Bidder's Guide provided in the registration materials. Bidders are reminded that Apple® Mac OS® is not currently supported.

11. In addition to bidding electronically over the Internet, qualified bidders will also have the option of bidding by telephone via the Auction Bidder Line. The Auction Bidder Line telephone number will be supplied in the registration materials sent to all qualified bidders. Bidders choosing to bid electronically may use the Auction Bidder Line as an alternate method of bidding. When submitting bids by telephone, bidders should allow sufficient time to bid by placing their calls well in advance of the close of a bidding round.⁷

12. Each authorized bidder must have his or her own SecurID® token, regardless of whether the bidder chooses to bid electronically or by telephone. Applicants with only one authorized bidder will be issued two SecurID® tokens, while applicants with two or three authorized bidders will be issued three tokens. For security purposes, the SecurID® tokens and the instructions for using them are mailed only to the contact person at the contact address listed on the applicant's short-form application. Please note that each SecurID® token is tailored to a specific auction. SecurID® tokens issued for other auctions or obtained from a source other than the FCC will not work for Auction 79.

13. Please note that the SecurID® tokens can be recycled, and we strongly encourage bidders to return the tokens to the FCC. We will provide pre-addressed envelopes that bidders may use to return the tokens once the auction is closed.

D. Bidding Contingency Plan

14. Bidders should develop comprehensive contingency plans that can be quickly implemented if bidders experience difficulty participating in the auction. While the FCC will correct any problems within Commission-controlled facilities, bidders are solely responsible for anticipating and overcoming problems such as bidder computer failures or other technical issues, loss of or problems with data connections, telephone service interruptions, adverse local weather conditions, unavailability of authorized bidders, or the loss or breach of confidential security codes. As referenced above, bidders will receive the Auction Bidder Line telephone number in their registration materials.

⁷ Because the length of a call to place bids may vary, bidders should allow a minimum of ten minutes.

III. MOCK AUCTION

15. The Bureaus strongly encourage all qualified bidders to participate in the mock auction that will be conducted Friday, August 28, 2009. The mock auction will allow qualified bidders to familiarize themselves with the FCC Auction System and to ask FCC auction staff and technical support staff questions about the system and about auction conduct. The Bureaus will conduct this auction over the Internet, and bidders will also have the option of bidding by telephone.

16. Qualified bidders can access the mock auction at <http://auctions.fcc.gov> or <http://auctions2.fcc.gov>. Bidders choosing to bid electronically should review the Integrated Spectrum Auction System (ISAS) Bidder's Guide provided in the registration materials. Qualified bidders that wish to place bids by telephone should use the Auction Bidder Line telephone number supplied in the Auction 79 registration materials.

17. The mock auction will include only 20 of the 122 construction permits, FM185A–FM641A, and will follow the rules governing the actual auction.⁸ The mock auction will be identified as Mock Auction 74. The FCC Auction System will assume that each bidder applied for all 20 construction permits. The FCC Auction System will also assume that each bidder submitted an upfront payment sufficient to give the bidder initial (maximum) eligibility (as measured in bidding units) to bid on all 20 of those construction permits. The mock auction will simulate the start of the auction, and each bidder will be required to be active on 75 percent of its current bidding eligibility. If a bidder does not meet this requirement, it will have a waiver automatically applied (if the bidder has any waivers available), or its current eligibility will be permanently reduced (if the bidder has no waivers remaining), possibly eliminating the bidder from further bidding in the mock auction.

18. The mock auction bidding schedule for Friday, August 28, 2009, will be as follows:

Round 1	10:00 a.m.	-	11:00 a.m. ET
Round 2	12:00 p.m.	-	12:30 p.m. ET
Round 3	1:30 p.m.	-	2:00 p.m. ET
Round 4	2:30 p.m.	-	3:00 p.m. ET
Round 5	3:30 p.m.	-	3:45 p.m. ET

IV. AUCTION INFORMATION

A. Auction Announcements

19. The Commission will post pertinent auction information as announcements in the FCC Auction System. Bidders should routinely check for announcements each time they enter the FCC Auction System and should read this information carefully.

B. Bidding Schedule

20. On Tuesday, September 1, 2009, and continuing until further notice, Auction 79 will begin with four rounds of bidding as follows:

Bidding Round	10:00 a.m.	-	11:00 a.m. ET
Bidding Round	12:00 p.m.	-	1:00 p.m. ET
Bidding Round	2:00 p.m.	-	3:00 p.m. ET
Bidding Round	4:00 p.m.	-	5:00 p.m. ET

⁸ The list will include the first twenty construction permits listed in Attachment A of the *Auction 79 Procedures Public Notice*, 24 FCC Rcd 4448, Att. A.

21. The Bureaus will set the pace of the auction based upon monitoring of the bidding and assessment of the auction's progress. All subsequent schedule changes will be made by announcement via the FCC Auction System during the course of the auction.

C. Bid Amounts

22. Each construction permit in Auction 79 will have a minimum opening bid amount, as previously announced.⁹ In addition to the minimum opening bid, Auction 79 will begin with eight additional bid amounts (for a total of nine bid amounts) per construction permit.¹⁰ Bidders are cautioned that they should enter their bid amounts carefully because bidders still assume a binding obligation to pay the full bid amount, even if mistakenly or erroneously made.¹¹ Moreover, bid withdrawals are not permitted in Auction 79.

23. The Bureaus retain the discretion to change the minimum acceptable bid amounts, the additional bid amounts, the dollar cap on bid increments, the number of acceptable bid amounts, and the parameters of the formulas used to calculate bid amounts if it determines that circumstances so dictate.

D. Round Results

24. Round results will be available approximately ten minutes after the close of each round.

25. Two types of reports will be available to bidders during the auction: (1) publicly available information, and (2) bidder-specific information available only to that bidder when logged in to the FCC Auction System. The public information will be available on the FCC Auction System results page and in downloadable files. When a bidder is logged in to the FCC Auction system, it will have a selection of "My Bid Reports" available to it on the FCC Auction System's bidding page. The "My Bid Reports" allow each bidder to view all of its own actions in the current and previous rounds of the auction.

26. Detailed instructions for reviewing and downloading round results are provided in the Integrated Spectrum Auction System (ISAS) Bidder's Guide. The bidder's guide is included with qualified bidders' registration materials and is available in electronic form through the "HELP" link in the FCC Auction System.

E. Watchlists

27. The FCC Auction System sets up for each qualified bidder a default watchlist, called "All Permits," which contains every construction permit designated on the bidder's short-form application. Qualified bidders may create additional watchlists containing construction permits of their own choosing, and construction permits may appear in multiple watchlists. Bidders may access the FCC Auction System and begin creating their watchlists upon receipt of their SecurID® tokens. Instructions for creating watchlists will be provided in the Integrated Spectrum Auction System (ISAS) Bidder's Guide. Please note that watchlists created in the mock auction will not display in Auction 79.

F. Bidder Questions

28. FCC auction staff and technical support staff will be available during the auction. Only a person who has been designated as an authorized bidder, the contact person, or the certifying official on

⁹ *Auction 79 Procedures Public Notice*, 24 FCC Rcd at 4484 ¶¶ 139-141. Attachment A of the *Auction 79 Procedures Public Notice* sets forth the minimum opening bid amounts for each construction permit offered in Auction 79.

¹⁰ *Auction 79 Procedures Public Notice*, 24 FCC Rcd at 4484-85 ¶¶ 142-147.

¹¹ See 47 C.F.R. § 1.2104(g).

the applicant's short-form application should call on behalf of a bidder. When calling, the person should state that he or she is calling on behalf of a bidder with a time-sensitive auction question. To place bids by telephone or to ask questions during the auction, bidders should use the FCC Auction Bidder Line telephone number supplied in the registration materials. Otherwise, bidders should refer to the contact information provided in Section VII "Contact Information" below.

G. Bidder Suggestions

29. The FCC Auction System includes a function for bidders to submit suggestions to the FCC, but this is not an appropriate mechanism for asking time-sensitive questions that may need an immediate response, such as questions about auction procedures or other issues. Those questions should be directed to the Auction Bidder Line or to the appropriate telephone number provided in Section VII "Contact Information" below.

V. MAINTAINING APPLICANT OBLIGATIONS

A. Prohibited Communications

30. The Bureaus remind applicants that Sections 1.2105(c) and 73.5002(d) of the Commission's rules prohibit applicants for any of the same geographic license areas from communicating with each other about bids, bidding strategies, or settlements, which may include communications regarding post-auction market structure, unless they have identified each other on their short-form applications as parties with which they have entered into agreements under Section 1.2105(a)(2)(viii).¹² The "geographic license area" is the market designation of the particular service.¹³ For the FM service, the market designation is the particular vacant FM allotment (e.g., Whitehall, Montana, Channel 274, Market FM185-A). In Auction 79, the rule applies to applicants applying for any of the same FM allotments. Therefore, applicants that have applied to bid for an FM construction permit for the same allotment have been precluded from engaging in prohibited communications after the short-form application filing deadline. In addition, even if auction applicants are each eligible to bid on only one common FM allotment, they may not discuss with each other their bids or bidding strategies relating to any FM allotment on which either is eligible to bid. An applicant is prohibited from communicating not only about its own bid or bidding strategy, but also from communicating about another applicant's bid or bidding strategy.

31. The prohibition on certain communications in Sections 1.2105(c) and 73.5002(d) is effective as of the short-form application filing deadline, which for Auction 79 was June 25, 2009, at 6:00 p.m. ET, and extends until the post-auction down payment deadline, which will be announced in a public notice released shortly following close of bidding.¹⁴ **The prohibition applies to all applicants regardless of whether such applicants become qualified bidders or actually bid.**¹⁵ For further information on the prohibition, applicants should refer to the *Auction 79 Procedures Public Notice*.¹⁶

¹² 47 C.F.R. §§ 1.2105(a)(2)(viii), 1.2105(c)(1), and 73.5002(d). See also Amendment of Part 1 of the Commission's Rules – Competitive Bidding Procedures, WT Docket No. 97-82, *Seventh Report and Order*, FCC 01-270, 16 FCC Rcd 17546 (2001) ("Part 1 Seventh Report and Order"); Amendment of Part 1 of the Commission's Rules – Competitive Bidding Procedures, WT Docket No. 97-82, *Order on Reconsideration of the Third Report and Order, Fifth Report and Order, and Fourth Further Notice of Proposed Rule Making*, FCC 00-274, 15 FCC Rcd 15293, 15297-98 ¶¶ 7-8 (2000).

¹³ See generally *Part 1 Seventh Report and Order*, 16 FCC Rcd at 17549 n.12.

¹⁴ 47 C.F.R. § 1.2105(c)(1).

¹⁵ For example, the Commission imposed a forfeiture in the amount of \$100,000 for violation of Section 1.2105(c) even though the applicant never made an upfront payment for the auction and was not listed as a qualified bidder. See *Northeast Communications of Wisconsin, LLC, Forfeiture Order*, DA 04-3027, 19 FCC Rcd 18635 (2004). The Commission subsequently reduced the amount of the forfeiture to \$75,000 due to the parties' history of compliance with Commission rules. See *Star Wireless, LLC and Northeast Communications of Wisconsin, Inc., Order on Review*, FCC 07-08, 22 FCC Rcd 8943 (2007), review denied, *Star Wireless, LLC v. FCC*, 522 F.3d 469

B. Disclosure Obligations and Possible Sanctions

32. Section 1.65 requires auction applicants that engage in communications of bids or bidding strategies that may themselves be prohibited, and that result in an agreement, arrangement, or understanding not already identified on their short-form applications, to promptly disclose any such agreement, arrangement, or understanding to the Commission by amending their pending applications.¹⁷ In addition, Section 1.2105(c)(6) requires all auction applicants to report prohibited discussions or disclosures regarding bids or bidding strategy to the Commission in writing immediately, but in no case later than five business days after the communication occurs, even if the communication does not result in an agreement or understanding regarding bids or bidding strategy that must be reported under Section 1.65.¹⁸ The Commission has clarified that each applicant's obligation to report any such communication continues beyond the five-day period after the communication is made, even if the report is not made within the five-day period.¹⁹

33. Parties reporting communications must take care to ensure that any such reports of prohibited communications do not themselves give rise to a violation of Section 1.2105(c). For example, a party's report of a prohibited communication could violate the rule by communicating prohibited information to other applicants through the use of Commission filing procedures that would allow such materials to be made available for public inspection. A party seeking to report such prohibited communications should consider submitting its report with a request that the report or portions of the submission be withheld from public inspection.²⁰ Such parties are also encouraged to consult with the Auctions and Spectrum Access Division staff if they have any questions about the procedures for submitting such reports.²¹ The *Auction 79 Procedures Public Notice* provides additional guidance on procedures for submitting application-related information.²²

(D.C. Cir. 2008) (Section 1.2105(c) applies to auction applicants regardless of whether they are qualified to bid). The United States District Court for the Eastern District of Wisconsin recently granted summary judgment in favor of the United States pursuant to an effort by the Department of Justice to enforce the forfeiture. *United States v. Northeast Communications of Wisconsin, LLC*, Decision and Order, Case No. 07-C-715 (June 25, 2008). See also Letter to Robert Pettit, Esq., from Margaret W. Wiener, Chief, Auctions and Industry Analysis Div., DA 00-2905, 16 FCC Rcd 10080 (Auc. Div. 2000) (declining to exempt an applicant's controlling interest from coverage by Section 1.2105(c), even though the applicant never made an upfront payment for the auction and was not listed as a qualified bidder).

¹⁶ *Auction 79 Procedures Public Notice*, 24 FCC Rcd at 4452-57 ¶¶ 7-20.

¹⁷ See *Part 1 Seventh Report and Order*, 16 FCC Rcd at 17550-51 ¶ 9. Section 1.65 of the Commission's rules requires an applicant to maintain the accuracy and completeness of information furnished in its pending application and to notify the Commission within 30 days of any substantive change that may be of decisional significance to that application. 47 C.F.R. § 1.65.

¹⁸ 47 C.F.R. § 1.2105(c)(6); see also *Part 1 Seventh Report and Order*, 16 FCC Rcd at 17555 ¶ 17.

¹⁹ See Service Rules for the 698-746, 747-762 and 777-792 MHz Bands, WT Docket No. 06-150, *Second Report and Order*, FCC 07-132, 22 FCC Rcd 15289, 15403-04 ¶¶ 285-86 (2007), recon. pending.

²⁰ See 47 C.F.R. § 0.459 (procedures for requesting that materials or information submitted to the Commission be withheld from public inspection). If an applicant requests confidential treatment of a document, the cover page of the filing must prominently display that the applicant is seeking confidential treatment for that document. For example, a filing might include a cover page stamped with "Request for Confidential Treatment Attached" or "Not for Public Inspection." Any such request must cover all of the material to which the request applies. See 47 C.F.R. § 0.459(a).

²¹ See "Contact Information" below.

²² See *Auction 79 Procedures Public Notice*, 24 FCC Rcd at 4456-57 ¶¶ 17-20.

34. Applicants that are winning bidders will be required to disclose in their long-form applications the specific terms, conditions, and parties involved in all bidding consortia, joint ventures, partnerships, or other agreements or arrangements entered into relating to the competitive bidding process.²³ Any applicant found to have violated Section 1.2105(c) may be subject to sanctions.²⁴ In addition, we remind applicants that they are subject to the antitrust laws, which are designed to prevent anti-competitive behavior in the marketplace. If an applicant is found to have violated the antitrust laws in connection with its participation in the competitive bidding process, it may be subject to forfeiture of its upfront payment, down payment, or full bid amount, and may be prohibited from participating in future auctions.²⁵

C. Submission of Auction-Related Filings

35. As noted above, applicants seeking to amend their short-form applications during the auction must make modifications to their short-form applications electronically and submit a letter, briefly summarizing the changes, by e-mail to the attention of Margaret Wiener, Chief, Auctions and Spectrum Access Division, at the following address: auction79@fcc.gov. The e-mail summarizing the changes must include a subject or caption referring to Auction 79 and the name of the applicant.

36. Parties wishing to submit requests, complaints, or other information concerning Auction 79 should, in addition to following other procedures prescribed by the Commission's rules, send a copy by e-mail to the attention of Margaret Wiener, Chief, Auctions and Spectrum Access Division, at the following address: auction79@fcc.gov. As noted in paragraph 33 (above), the submission of Auction 79-related information could contain information which, if made public, could give rise to a violation of Section 1.2105(c). We caution applicants to avoid any statements or disclosures that may be prohibited under Section 1.2105(c) and urge applicants to consult with the Auctions and Spectrum Access Division staff if they have any questions about the procedures for any such submissions.²⁶

37. The Commission occasionally receives complaints regarding certain bidders and requests to suspend bidding during an auction. While the Commission reserves the right to take appropriate action during an auction to preserve the integrity of the auction process, it is generally our practice to address any such allegations only after the winning bidders have submitted their long-form applications, when there is greater opportunity for investigation of such allegations, if warranted. The Commission will not investigate any complaints or allegations that are not accompanied by full contact information, including name, address, and telephone number, for the complaining party or parties.

38. Finally, parties wishing to make suggestions concerning Auction 79 or future auctions should present such ideas using the suggestion feature of the FCC Auction System. (As mentioned above, this feature is not an appropriate mechanism for asking time-sensitive questions that need an immediate response.) Commission staff considers all suggestions, but may not always provide an individualized response.

D. Amendments to Short-Form Applications (FCC Form 175)

39. Applicants must maintain the accuracy and completeness of information furnished in their short-form applications, including their attachments.²⁷ Applicants should amend their short-form

²³ See 47 C.F.R. § 1.2107(d).

²⁴ See 47 C.F.R. §§ 1.2105(c), 1.2107(d), and 1.2109(d).

²⁵ See 47 C.F.R. § 1.2109(d).

²⁶ See "Contact Information" below.

²⁷ See 47 C.F.R. § 1.65.

applications as promptly as possible, but no later than ten business days from the occurrence of a reportable change. Applicants must modify their short-form applications electronically and submit a letter briefly summarizing the changes by e-mail to the attention of Margaret Wiener, Chief, Auctions and Spectrum Access Division, at the following address: auCTION79@fcc.gov. Questions about changes should be directed to the Auctions and Spectrum Access Division at (202) 418-0660.

40. As described in the Commission's rules, applicants may make only minor corrections to their short-form applications (e.g., deletion and addition of authorized bidders or contact information).²⁸ Major modifications (e.g., changing construction permit selection, changing control of the applicant, or claiming eligibility for a higher percentage bidding credit) will not be accepted.²⁹ Bidders must immediately report any change affecting their eligibility for a new entrant bidding credit. Bidders should clearly state the nature of the change in an amendment to their short-form application and in the summary letter referenced above. In cases of diminished bidding credit eligibility, the Commission will make appropriate adjustments in the bidding credit prior to the computation of any down and final payment amounts due.

E. Due Diligence

41. We remind potential bidders that they are solely responsible for investigating and evaluating all technical and marketplace factors that may have a bearing on the value of the broadcast facilities being offered in Auction 79. The Commission makes no representations or warranties about the use of this spectrum for particular services. We strongly encourage potential bidders to conduct their own research prior to the beginning of bidding in Auction 79 in order to determine the existence of pending proceedings, pleadings, applications, or authorizations that might affect their decisions regarding participation in the auction. Potential bidders also should review all underlying Commission orders, such as the specific report and order amending the FM Table of Allotments and allotting the FM channel(s) on which they plan to bid.³⁰ Participants in Auction 79 should continue such research on any pending matters throughout the auction. In addition, potential bidders should perform technical analyses sufficient to assure themselves that, should they prevail in competitive bidding for a specific construction permit, they will be able to build and operate facilities that will comply fully with the Commission's technical and legal requirements. For further details regarding due diligence, please refer to the *Auction 79 Procedures Public Notice* under Section I.B.3.³¹

VI. POST-AUCTION INFORMATION

A. Post-Auction Procedures

42. Shortly after bidding has ended, the Commission will issue a public notice declaring the auction closed, identifying the winning bidders, and establishing the deadlines for submitting down payments and final payments.³² Each winning bidder will have ten business days following that public notice to make down payments. Each winning bidder will also be required to submit any final payments within ten business days after the applicable deadline for submitting down payments.

43. Within thirty business days after release of the auction closing public notice, winning bidders must electronically submit a properly completed long-form application (FCC Form 301), including

²⁸ See 47 C.F.R. § 1.2105(b).

²⁹ *Id.*

³⁰ See 47 C.F.R. § 73.202.

³¹ See *Auction 79 Procedures Public Notice*, 24 FCC Rcd at 4457-58 ¶¶ 21-28.

³² For more detail, see *Auction 79 Procedures Public Notice*, 24 FCC Rcd at 4487-88 ¶¶ 162-165.

required exhibits, for each construction permit won through Auction 79.³³ Winning bidders claiming new entrant status must include an exhibit demonstrating their eligibility for the bidding credit.³⁴ Further filing instructions will be provided to auction winners at the close of the auction.³⁵ Further instructions regarding these post-auction procedures are contained in the *Auction 79 Procedures Public Notice* and will be provided in the public notice announcing the winning bids.³⁶

VII. CONTACT INFORMATION

44. For further information concerning Auction 79, please contact:

General Auction 79 Information

General Auction Questions
Auction Process and Procedures

FCC Auctions Hotline

(888) 225-5322, option two; or
(717) 338-2868
Hours of service: 8:00 a.m. – 5:30 p.m. ET,
Monday through Friday
All calls to the FCC Auctions Hotline are recorded.

Auctions and Spectrum Access Division

(717) 338-2868 or (202) 418-0660

Debbie Smith or Linda Sanderson

FCC Auction System Information

FCC Technical Support Hotline

(877) 480-3201, option nine; or
(202) 414-1250 or (202) 414-1255 (TTY)
Hours of service: 8:00 a.m. – 6:00 p.m. ET,
Monday through Friday
All calls to the FCC Technical Support Hotline are recorded.

Auction 79 Legal Information

Auction Rules, Policies, Regulations

Auctions and Spectrum Access Division

(202) 418-0660

Howard Davenport or Lynne Milne

Auction Payments

Instructions for Wiring Upfront Payments

Auctions Accounting Group

(202) 418-0578

Gail Glasser

Licensing Information

Service Rules, Policies, Regulations
Licensing Issues, Engineering Issues
Due Diligence, Incumbency Issues

Audio Division (202) 418-2700

Lisa Scanlan or Tom Nessinger

³³ See 47 C.F.R. §§ 1.2107 and 73.5005. See also *Broadcast First Report and Order*, 13 FCC Rcd at 15984-85 ¶¶ 163-64.

³⁴ See 47 C.F.R. §§ 1.2112(b), 73.5005, 73.5007 and 73.5008.

³⁵ See 47 C.F.R. §§ 1.2107, 1.2109(a), 73.3572, 73.5003, 73.5005, and 73.5006(d).

³⁶ See 47 C.F.R. §§ 1.2107, 1.2109(a).

45. To request materials in accessible formats (Braille, large print, electronic files, audio format) for people with disabilities, send an e-mail to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at (202) 418-0530 or (202) 418-0432 (TTY).

- FCC -